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ABSTRACT

Broadcasters should aim for diversity and excellence in programming rather than basing programming decisions on the Nielsen ratings and aiming for maximized profits. Broadcasting reflects, shapes, alters, and informs the national consciousness; entertainment programs as well as newscasts have tremendous impact on the public, and the effect of broadcasting on values and institutions has become a national issue. There are five principles that should determine how the Federal Communications Commission (FCC) will move with regard to broadcasting: (1) The integrity and independence of the FCC's process is more important than any of its particular decisions. (2) The FCC will be evenhanded in enforcing its rules and protecting the public interest. (3) The FCC will not exceed its authority by intervening directly in specific program decisions, but instead will encourage controversial programming. (4) The FCC should seek to stimulate excellence through diversity, and diversity through competition, and should rely upon regulation as little as possible. (5) The FCC should encourage new technology and services rather than helping any vested interest to hold them back. Broadcasters should show initiative in greatly increasing the range of services they offer to the public.

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REMARKS OF CHARLES D. FERRIS

CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

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BEFORE THE

56TH ANNUAL CONVENTION

OF THE

NATIONAL ASSOCIATION OF BROADCASTERS

THE LAS VEGAS HILTON HOTEL, LAS VEGAS, NEVADA

WEDNESDAY, APRIL 12, 1978

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Charles D. Ferris

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND USERS OF THE ERIC SYSTEM."

I learned from Newton Minow that as he was leaving the podium after his first--and most famous--speech to the NAB, a delegate walked up and told him: "I didn't think that was a very good speech."

When Minow was half way out of the room, the same broadcaster accosted him again and said: "I didn't like that speech one bit."

Minow kept moving, but the broadcaster caught him a third time at the exit. Excitedly he shouted at Minow: "That was the worst speech I ever heard in my whole life." Then he turned and stalked away.

A few minutes later, another broadcaster who had witnessed these encounters approached Minow with a comforting comment. "Mr. Chairman," he said, "I wouldn't pay any attention to that fellow. Everyone knows he has no mind of his own. All he ever does is repeat whatever he hears."

Well, each new Chairman of the FCC seems doomed to repeat as well what the NAB has heard from his predecessors.

In 1965, Bill Henry spoke of the FCC's aim "to make room for as many diverse ideas in television as possible." Today too much programming

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is still the same from hour to hour, and channel to channel, with only the names of the networks changed to protect the appearance of competition.

In 1969, Rosel Hyde urged that television show "what it means to walk in the shoes of the poor, the hungry, and the disadvantaged." Today, a year after Roots--a program that brought a sense of heritage, a glimpse of history, and a means of understanding to millions of Americans--the Commission is firmly committed to enforcing a policy that television not only show and tell--but do: that a medium which in law belongs to all the people should not exclude the minority who are not white and the majority who are women from full participation in the lifestream of national communication.

In 1970, Dean Burch conceded that FCC procedures needed to be "revised and simplified." Today, as the new Chairman of the FCC, I am determined that we will solve that problem. The Commission's rules should be written in plain English. A non-lawyer should be able to read and understand them. Those who regulate communications at least ought to be able to communicate clearly. It might even mean fewer dollars for legal services and more money for program excellence.

Seventeen years ago in 1961, Newton Minow worried about "competition for ever higher ratings." Today, the tyranny of Nielsen's numbers has strengthened its hold. The only place in our Republic where points and point-spreads are given greater urgency than here in the casinos of Las Vegas are the corporate headquarters of the three networks in New York.

That arrangement cannot be acceptable to the American people and must not be acceptable to professional broadcasters. For as we have all

learned, quantity is not synonymous with quality. More--as you and the Commission have both learned in the case of regulation--does not mean better.

For if television had--or has--its vast wasteland, it will not--and cannot--be made fertile by overlaying it with a vast swampland of regulations. Shortly after coming to the Commission, I instituted a study of the delays in license and comparative renewal cases. We need to establish procedures that are both faster and fairer--and we will.

Thus, much of what I have to say will contribute to the tradition of past Chairmen that it is not only television that puts on reruns. The speeches of FCC Chairmen, like your own industry, tend to the truth that the more things change, the more they stay the same. Living color cannot give life to programs that are reruns in all but title. Decades of invention and innovation in broadcasting have not resolved issues that were there from the start--from that first night when KDKA crackled across the airwaves with the election returns from the Harding-Cox campaign for President in 1920.

By this point, I'm sure, it's clear that one other thing has not changed about an FCC Chairman's speech to the NAB. As one of my predecessors put it twelve years ago: "My work is cut out for me today. You will not agree with everything that is said."

Indeed, I may not agree with all I say a year from now. I intend to be open-minded--and independent. I do not have rigid preconceptions--but I do have convictions. And I do believe that all of us who are responsible for a communications medium that reflects, shapes, alters, and informs the

national consciousness need convictions that transcend the bottom line of writing regulations or of counting profits and ratings.

The Commission's decisions on telephone tariffs have a far greater immediate economic impact on every American than our rulings about television and radio. But in terms of their social, psychological, and ultimately their economic effects, broadcasting's images and words are not cheap.

Communication is the most precious currency of a free society. It is not just a matter of billion dollar sales, but of over two hundred million minds: To a large extent, we are what we see of ourselves on television. We are content or we dissent because its technology permits us as never before in history to know or to disguise ourselves. Seeing, far more than reading, is believing.

Without broadcasting, Americans would not have witnessed Bull Connor, Birmingham or the march on Selma--and America might not have two of the most noble and fulfilling legislative achievements of this century, the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Without broadcasting, America would not have heard the gunfire and seen the casualties at Kent State and Hamburger Hill--and young Americans who are alive today would be dead in a longer, even more bitter war.

Without broadcasting, the Watergate hearings and the impeachment proceedings might have been a matter of record, not reality--and the country might never have reached a consensus that the issue was a matter of principle, not partisanship.

News is the easy case to demonstrate the power of broadcasting. CBS News proved recently that broadcasting can even bring adversaries together in the cause of peace. But entertainment also informs us, in more subtle ways, about our lifestyles, our attitudes and our possibilities.

More people saw Elvis Presley in three appearances on "The Ed Sullivan Show" than in all the live concerts that he performed over the next twenty years. And what they saw influenced and expressed the feelings of the next generation. More people saw a single opera performance live from Lincoln Center last year than had seen it in person in all the performances in history. And that too may influence our national culture.

Your business is the business of America. Your role is so central that you can share credit for some of the best of our lives--from civil rights to political reform. And you also get blamed for much of the worst--for social problems ranging from violent street crime to lower college test scores. The average American citizen spends literally years of a lifetime watching or listening to television and radio. Your effect on values--and on institutions such as the school and the family--has become a national issue--like other issues concerning our national environment and national health.

At times broadcasting has been an easy scapegoat for other social failures. But not always--for this industry too, sometimes fails. When that happens, even when it brings with it commercial success, the public has a right to call you to a different account than the numbers on the balance sheet. Your private enterprise involves a public responsibility

at least as serious as that of other industries not to degrade the physical environment. Americans worried about the quality of the air they breathe properly worry as well about the quality of the airwaves that penetrate their homes and saturate their children's minds.

The Communications Act is both an expression of that concern--and of the hope that public communication through many private sources can serve the public interest. The ideal is easier to state than to realize. It has its own internal tensions--for example, between overseeing the public interest in the use of the airwaves and avoiding interference on the basis of a public official's own program tastes or political interests.

As I have discovered, an FCC Chairman can be criticized for moving too slowly--or too fast. But recognizing both the proper limits and the possibilities of the Commission's role, I believe that it must move--that the next FCC Chairman should not be able to quote from his predecessors' speeches as though the lines were newly written. If you invite me back in some future year, I want to say different things to a later NAB convention.

Today, I would like to state five principles that I believe should determine how, and to what ends, the Commission will move.

First, the integrity and independence of the Commission's process is more important than any of its particular decisions. No industry we regulate will be regarded as a "constituent." By law, the Commission's only constituency is the public. We are independent of the Executive Branch. Our job as regulators is not to become agents of the regulated. Nor is it to reinforce public pressures that would impair your journalistic freedom.

But independence does not mean isolation. The FCC fully shares this Administration's commitment to regulatory reform. And we also have a commitment to listen seriously and sensitively to your concerns--and to the concerns of consumers.

Second, the Commission will be even-handed in enforcing its rules and in protecting the public interest. In the past, the FCC sometimes has been more attentive to abuses against your commercial clients--such as fraudulent billing of advertisers--than it has with the misuse of the medium in relation to your true clients--the public. The Commission must judge those who have shortchanged advertisers and those who shortchange the public even-handedly.

No longer should the Commission be tougher on smaller than on the larger licensees. And hopefully we will be able to develop more effective ways to invoke the sanctions available to us. We will encourage licensees to correct mistakes on their own initiative rather than to await a Commission assessment of liability and punishment. Newspapers regard corrections and retractions as fit to print. When radio or television broadcasters mislead the public, they must set the record straight through corrective programming and advertising.

The demands on you to provide a public service and not simply to maximize profits are not the mere whims of federal regulators. It is the mandate of the law that binds us both. And its source of legitimacy comes from the American people directly. In fact, as well as in theory, your licenses cannot be viewed as a vested interest to be held in perpetuity. I intend to enforce the public interest standard for renewal.

Third, while I will carry out my responsibility under the law, I will not exceed my authority by intervening directly in your specific program decisions. Precisely because the pressures of society on broadcasting this past decade have never been more intense, the need for restraint by government has never been so great. Perhaps today the best definition of a democracy is that it resists the temptation and the pressure to control the mass media, even when they are controversial.

Instead we ought to encourage controversy. Broadcasters have the power to give access to competing ideas--and you can expect that the Congress, the courts, and the Commission will continue to require that you not deny the public access to those ideas. But this does not mean that broadcasters must bend with every breeze of public opinion. Your role as an independent and critical voice is too vital for that. You must, however, be sensitive to viewpoints and opinions of those who do not have FCC licenses.

The New York Times does not compromise its journalistic integrity by opening an Op-Ed page to alternative editorials. To an even greater extent--in broadcasting--the most pervasive form of communication--journalistic integrity means opening the medium to the many.

More local stations are offering that openness. And one network--CBS--recently started a program featuring viewer feedback. This convention has itself sponsored panels where minorities, women and consumer representatives have had their say. None of this marks the completion of the process. But it is perhaps the midpoint of a good beginning. Eventually television and radio can offer the technological equivalent of a New England town meeting.

Fourth, the FCC should seek to stimulate excellence through diversity--and diversity through competition. We need more than marginal improvements and minor adjustments in present regulations and procedures.

I favor a policy of zero-based regulation. We will rely on competition instead of rules whenever that is promising or possible. The marketplace can stimulate innovation, reduce costs, diversify audiences and raise the quality of your medium.

I do believe that the consumer's interest is paramount. And broadcasting is one of the most consumed commodities in this country. But I reject the myth that the consumer's interest and increased government intervention are identical. Less regulation can mean better broadcasting. It can mean that you spend less time on needless procedures--and more time on improved programming. It can mean fewer dollars for legal services--and more money for consumer services.

Government does more harm than good when it maintains a regulatory framework for ceremonial purposes alone. In regulating radio, we may be at that point. In some markets over fifty stations broadcast across a band of tastes as well as megacycles. By moving the dial an inch a listener can hear all the way from Rachmaninoff to Led Zeppelin--from stations featuring all news to those preaching their own good news about religion. I doubt that regulation was the primary cause of this diversity. We must seriously consider replacing the current regulation of radio content with a structural, marketplace mechanism that still yields a public dividend for the privilege of having a place on the radio band. Thus we could recognize both that the

radio spectrum is not so limited as it used to be--and that it is still not limitless.

Other reforms can blunt efforts to regulate television content. Some of that pressure expresses legitimate concerns. The Commission's rules against employment discrimination, for example, can be an effective alternative to direct FCC scrutiny of media "stereotyping." When you hire Blacks, women, Hispanics, and Asian Americans in responsible jobs, then the diversity of program choice will increase without any rule or agency telling you exactly what to broadcast.

I intend to enforce equal employment opportunity vigorously--and to urge a more nearly equal chance for minorities and women to hold broadcast licenses as well as broadcasting jobs.

A strong noncommercial television and radio service is another effective means of encouraging diverse services without more regulation.

Out of the iron grip of the ratings, where a single point within the range of statistical error can kill a show, public radio and public television can satisfy needs and audiences that you do not reach. They can create a Sesame Street, cover the Senate debate of the Panama treaties, and carry the Metropolitan Opera from Lincoln Center to Lincoln, Nebraska. Public broadcasting has also pioneered in satellite delivery and captioning for the deaf.

You should recognize the contributions public broadcasting has made, and can make in the future, to stimulate a healthy national communications service and a freer broadcast marketplace. Public broadcasting can

increase viewers' choices by meeting specialized needs not fully satisfied by an advertiser-based system.

A well-funded system of noncommercial television and radio can reduce the pressure for content regulation of broadcasting in general. It can also provide a useful "market place yardstick" and a competitive prod to you as commercial broadcasters to strive for excellence and experiment with new ideas and formats.

By setting its own high standards for children's programming, public television can raise the public's and your awareness of television's potential in a way the Commission could not or should not. During my term as Chairman, I will support a strong public broadcasting system, as well as a strong commercial broadcasting system.

Finally--and perhaps most importantly--I believe that the FCC should encourage new technology and services, rather than helping any vested interest to hold them back. Your industry exists because of those who saw things that never were--and it will not prosper now by explaining why not to advances in communications technology. These advances do present a challenge to you. But they are also a great opportunity--for broadcasting and for the public.

No one clearly envisions the sights, and sounds, and the possibilities of all the new technology. But we cannot look to the past, backwards to a passing status quo. We have to reexamine old assumptions and apprehensions. Technology will make us more--not less--dependent on the electronic transmission of information--the lifeline of a free society.

Electronic journalism and print journalism must strive to stand on an equal footing as we approach the end of the century. The pace of technological change is so quick and our dependence upon electronic news is increasing so rapidly that we must assure the independence of the electronic media from government control. We owe a commitment to this goal to our children and their children, for television will shape their lives even more than it has shaped ours.

But editorial freedom and independence go hand in hand with competition in the marketplace of ideas and in the marketplace for the attention of viewers and listeners. I do not think you can have one without the other. You cannot argue for less regulation of your own medium, and at the same time argue for more regulatory protection from competing information sources. For it is that competition of ideas and program sources that can help us begin to erect a new regulatory philosophy based upon abundant--not scarce--resources.

The Chicken Littles, who always think that the antennae are about to fall, predict that satellite delivery of multiple program services, fiber optics, and translators will make your industry obsolete. That could happen--if you regard change as an adversary and resist the chance for experimentation. But if you are as bold as a Sarnoff or a Paley when they put together the first networks, you can profit by multiplying the range of your services:

-- We do not have to wait for cable or fiber optics for Americans to get weather, sports and news on demand--or the capacity to use their

television sets to retrieve other data. You can lead the nation into an era of individual choice in communications. The British have taken the first steps towards using broadcast signals for captioned information or teletext data retrieval. We can catch up.

-- You can make wider use of satellites to pick and choose from a wider number of program options, rather than permitting cable to gain a larger lead in this field. The booming market for syndicated shows proves that the product will be there when you have the means to receive it.

-- You can support the development of improved television sets to bring better UHF reception and more UHF channels to more people.

In short, your medium can provide a richer diversity with more convenience than any other. Commercial broadcasting can and must represent more than the survival of the tired, the timid and the imitative. And as you increase the options you offer to the public, you will relieve the public's pressure to regulate the content of a limited number of programs. And all this can mean higher profits as well.

In closing, I challenge each of you to ask the most important question that you can ask yourself: What special services are you providing that another licensee could not--or that another technology could not?

If you can answer that you put a major portion of your profits into strong local programming--or that you provide your community with access to a multiplicity of program sources--then you have a reasonable basis for seeking tenure as individual licensees--and as an entire industry. But if you are only flipping a network switch--or replaying an occasional movie

package--then you have not made the case that you are essential to your community--or to the national communications system--in ways that a wired nation or direct satellite to home broadcasting would not provide.

Your answer, and your response to the rapid pace of new technology, is by far more critical than any action I will take, or speech that I will make, over my term as Chairman.

So far, broadcasting has more than profits to be proud of. It has, however, deficiencies to be remedied, technologies to be developed, and alternatives to be explored. And these are responsibilities that you could not escape even if you would. Edward R. Murrow said it a quarter of a century ago when your enterprise had one of its most shining moments--back in the drab days of black and white television. After showing Senator Joseph McCarthy browbeating citizens and mugging the Constitution, Murrow asked whose fault it was. "The fault," he answered, paraphrasing Shakespeare, "lies not in our stars, but in ourselves."

As a regulator charged with enforcing the law, I am ready to see and say when the fault lies with you. But I would rather see diversity and excellence thriving and then say: the credit lies not with the FCC, but with broadcasters themselves.

Thank you.